



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1016 (Modification Proceeding)]

Certain Access Control Systems and Components Thereof

Notice of Institution of Modification Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a modification proceeding in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2382. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on August 3, 2016, based on a Complaint filed by the Chamberlain Group ("Complainant" or "Chamberlain") of Elmhurst, Illinois. 81 FR 52713 (Aug. 9, 2016). The Complaint alleged that Respondents were violating Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337

("Section 337"), by importing, selling for importation, or selling in the United States after importation garage door opener products ("GDOs") that infringe certain claims of U.S. Patent No. 7,161,319 ("the '319 patent"), U.S. Patent No. 7,196,611 ("the '611 patent"), and U.S. Patent No. 7,339,336 ("the '336 patent"). The '319 patent is the only patent at issue for purposes of the present petition for a modification proceeding. The asserted claims of the '611 and certain claims of the '336 patent were previously terminated. Notice (Mar. 20, 2017) (*see* Order No. 18); Notice (May 31, 2017) (*see* Order No. 28). The remaining claims of the '336 patent were found to be not infringed. 83 FR 13517, 13519 (March 29, 2018).

The Commission's Notice of Investigation named Techtronic Industries Co., Techtronic Industries North America, Inc., One World Technologies, Inc., and OWT Industries, Inc., and ET Technology (Wuxi) Co. (collectively "Respondents" or "Techtronic") among the Respondents. Ryobi Technologies, Inc. was initially named as a Respondent, but was later terminated from this investigation on an unopposed motion. Notice (Nov. 7, 2016) (*see* Order No. 6). The Office of Unfair Import Investigations is not a party to the investigation.

On July 12-13, 2017, the ALJ held an evidentiary hearing on infringement, invalidity, domestic industry, and remedy with respect to the remaining '319 patent. On October 23, 2017, the ALJ issued his final initial determination ("ID"), in which he found the '319 patent claims were not obvious and were infringed by Respondents' accused GDOs. 83 FR at 13518 (discussing ID at 130-41, 144, 151-212). The Commission determined not to review the ALJ's infringement determination but limited its review to obviousness. 82 FR 61792 (Dec. 29, 2017). The Commission ultimately affirmed the ALJ's findings that the '319 patent claims were not obvious and Respondents were violating Section 337 by way of infringement, and entered limited exclusion order ("LEO") and cease-and-desist orders ("CDOs") with certification

provisions. 83 FR at 13517, 13519; Commission Opinion at 1-2, 13-31, 35-36 (Mar. 23, 2018).

The President did not disapprove of the Commission's remedial orders. The Commission's final determination is presently on appeal to the Federal Circuit.

On August 2, 2018, Respondents filed a petition with the Commission to institute a modification proceeding to determine whether their allegedly redesigned garage door opener products infringe the '319 patent that is the subject of the remedial orders issued in this investigation and for modification of those remedial orders to specify the status of those redesigned products. On August 13, 2018, Complainant filed its opposition to this Petition. On August 22, 2018, Respondents filed a reply in support of their petition with an accompanying motion for leave to file a reply. On August 30, 2018, Respondents filed a motion for leave to file a second supplement to their petition for a modification proceeding.

The Commission has determined that Respondents' petition complies with the requirements for institution of a modification proceeding pursuant to Commission Rule 210.76. Accordingly, the Commission has determined to institute a modification proceeding and has delegated the proceeding to the Chief Administrative Law Judge to designate a presiding Administrative Law Judge. The presiding ALJ shall submit a recommended determination within six (6) months after publication of notice of this Order in the Federal Register. Chamberlain and Techtronic are named as parties to this proceeding. The Commission has further determined to deny Respondents' motion for leave to file a reply and Respondents' motion for leave to file a second supplement to their original petition.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 4, 2018.

Lisa R. Barton,

Secretary to the Commission.

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